

STATE  
PROPERTY

CODE  
OF  
VIRGINIA

1950

7A

Titles  
51-54

Pensions  
to  
Professions

1974  
Replacement  
Volume

# CODE OF VIRGINIA

## 1950

With Provision for Subsequent Pocket Parts

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ANNOTATED

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## VOLUME 7A

1974 REPLACEMENT VOLUME

*(Including Acts of the 1974 Session and annotations taken from  
Virginia Reports through Volume 214)*



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§ 53-315

CODE OF VIRGINIA

§ 53-318

the United States immigration officer in charge of the district in which such penitentiary, reformatory, jail or other institution is located, of the date of and the reasons for such alien's commitment, the length of time for which committed, the country of which he is a citizen, his age, and the date and vessel, vehicle or aircraft on which and the place at which he last entered the United States. (1928, p. 1347; Michie Code 1942, § 4997b; 1970, c. 648.)

**§ 53-315. Duty of clerk to furnish copy of complaint, indictment, judgment and sentence.** — Upon the official request of the United States immigration officer, in charge of the territory or district in which is located any court committing any alien to any State or county institution which is supported wholly or in part by public funds, it shall be the duty of the clerk of such court to furnish, without charge, a certified copy, in duplicate, of the complaint, information or indictment and the judgment and sentence and any other record pertaining to the case of the convicted alien. (1928, p. 1347; Michie Code 1942, § 4997b.)

## CHAPTER 17.

### DEATH SENTENCES.

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**§ 53-316. When death sentence executed.** — Sentence of death, except for insurrection or rebellion, shall not be executed sooner than thirty days after the sentence is pronounced. (Code 1950, § 19-274; Code 1950 (Repl. Vol. 1960), § 19.1-301; 1960, c. 366; 1972, c. 145.)

**Code Commission note.** — The provisions of §§ 53-316 to 53-323 were formerly contained in §§ 19.1-301 to 19.1-307. Those sections were repealed, and their provisions transferred, by Acts 1972, c. 145.

**The imposition and carrying out of the**

**death penalty was held to constitute cruel and unusual punishment** in violation of the Eighth and Fourteenth Amendments. *Furman v. Georgia*, 408 U.S. 238, 92 S. Ct. 2726, 33 L. Ed. 2d 346 (1972).

**§ 53-317. Death chamber; who to execute death sentence.** — The superintendent of the State penitentiary, at Richmond, is hereby authorized and directed to provide and maintain a permanent death chamber within the confines of the penitentiary. The death chamber shall have all the necessary appliances for the proper execution of felons by electrocution. In the death chamber shall be executed all felons upon whom the death penalty has been imposed. Each execution shall be conducted by the superintendent or some assistant or assistants designated by him. (Code 1950, § 19-275; Code 1950 (Repl. Vol. 1960), § 19.1-302; 1960, c. 366; 1972, c. 145.)

**§ 53-318. Transfer of convict to penitentiary; how death sentence executed; who to be present.** — The clerk of the court in which is pronounced

§ 53-319

## PRISONS AND OTHER METHODS OF CORRECTION

§ 53-321

the sentence of death against any felon shall, as soon as may be, after such sentence, deliver a certified copy thereof to the superintendent of the penitentiary at Richmond. As soon as practicable thereafter and not less than fifteen days before the time fixed, in the judgment of the court, for the execution of the sentence, the superintendent of the penitentiary shall cause to be conveyed to the penitentiary such condemned felon in the manner now prescribed by law for the conveyance of felons sentenced to confinement in the penitentiary, and the superintendent, in his discretion, may appoint more than one guard to convey the condemned felon, and the expenses of such guard or guards shall be paid in the manner and under the requirements now prescribed by law for the conveyance of convicts to the penitentiary. The superintendent, or the assistants appointed by him, shall, at the time named in the sentence, cause the felon under sentence of death to be electrocuted until he is dead unless a suspension of execution be ordered. At the execution there shall be present the superintendent, or an assistant, the surgeon of the penitentiary or his assistant, and a number of respectable citizens numbering not less than six nor more than twelve. The counsel for the convict and a minister of the Gospel may be present. (Code 1950, § 19-276; Code 1950 (Repl. Vol. 1960), § 19.1-303; 1960, c. 366; 1972, c. 145.)

**§ 53-319. Certificate of the execution of death sentence.** — The superintendent shall certify the fact of the execution of the condemned felon to the clerk of the court by which such sentence was pronounced, who shall file such certificate with the papers of the case and enter the same upon the records of the case. (Code 1950, § 19-277; Code 1950 (Repl. Vol. 1960), § 19.1-304; 1960, c. 366; 1972, c. 145.)

**§ 53-320. New day for execution.** — Whenever the day fixed for the execution of a sentence of death shall have passed without the execution of such sentence and it shall have become necessary to fix a new date therefor, the court which pronounced such sentence, or the judge thereof in vacation, shall fix another day for such execution. The person to be executed need not be present when such other date is fixed, but a copy of the order fixing the new date of execution shall be promptly furnished by the clerk of the court making the order to the officer in whose custody the person to be executed is, and such officer shall deliver a copy of the order to the person to be executed and, if he is unable to read it, explain it to him, at least ten days before the date fixed for such execution, and make return thereof to the clerk of the court which issued same.

When the day fixed for the execution of a sentence of death has passed without the execution of such sentence by reason of a reprieve granted by the Governor, it shall not be necessary for the court to resentence the convict, but the sentence of death of the court shall be executed on the day to which the convict has been reprieved. (Code 1950, § 19-278; Code 1950 (Repl. Vol. 1960), § 19.1-305; 1960, c. 366; 1972, c. 145.)

**§ 53-321. Reprieve, writ of error, etc.; subsequent process; how served; resentence; new trial.** — Should the condemned felon, while in the custody of the superintendent of the penitentiary, be granted a reprieve by the Governor, or obtain a writ of error from the Supreme Court of Appeals, or should the execution of the sentence be stayed by any competent judicial proceeding, notice of such reprieve or such writ of error or stay of execution shall be served upon the superintendent of the penitentiary, as well as upon the condemned felon, and the superintendent shall yield obedience to the same. In any subsequent proceeding the mandate of the court having regard to the condemned felon shall be served upon the superintendent of the penitentiary as well as the felon. Should the felon be resented by the court then the proceedings shall be as